

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRIAN TOBOYEK,

Plaintiff,

Case No. 22-cv-786-pp

v.

WISCONSIN PUBLIC SERVICE CORPORATION,
and RYAN SOLLBERGER,

Defendants.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANTS' MOTION TO
DISMISS (DKT. NO. 6)**

On August 4, 2022, the defendants filed a motion to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1). Dkt. No. 6. The defendants argue that the plaintiff's claims are barred by the doctrines of issue and claims preclusion and that, even if that were not the case, the plaintiff has not alleged sufficient facts which would establish the basic elements of his claims or establish subject matter jurisdiction. Dkt. No. 7 at 7-21.

Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion he must do so within twenty-one days—that is by August 25, 2022. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that he has another option—he may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v.

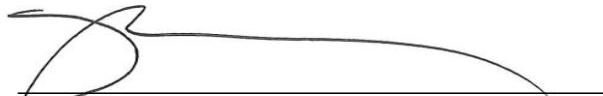
Girl Scouts of Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015)

(explaining that a responsive amendment may avoid the need to decide the motion or reduce the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by August 25, 2022 the plaintiff shall file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 8th day of August, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge